

**MINUTES OF
FAIRFAX COUNTY PLANNING COMMISSION
THURSDAY, JANUARY 27, 2000**

PRESENT: Walter L. Alcorn, Commissioner At-Large
John R. Byers, Mount Vernon District
Janet R. Hall, Mason District
Suzanne F. Harsel, Braddock District
John B. Kelso, Lee District
Ronald W. Koch, Sully District
Ilryong Moon, Commissioner At Large
Peter F. Murphy, Jr., Springfield District
Linda Q. Smyth, Providence District
Laurie Frost Wilson, Commissioner At-Large

ABSENT: Judith W. Downer, Dranesville District
John M. Palatiello, Hunter Mill District

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The meeting was called to order at 8:35 p.m. by Chairman Peter F. Murphy, Jr.

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COMMISSION MATTERS

Chairman Murphy reminded the Commission that election of Planning Commission officers would be held on Wednesday, February 2, 2000.

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In Commissioner Palatiello's absence, Chairman Murphy reminded the Commission that a Policy and Procedures Committee meeting would be held on Wednesday, February 2, 2000 at 7:30 in the Board Conference Room.

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Chairman Murphy announced that there would be no Planning Commission meeting on Thursday, February 3, 2000.

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Chairman Murphy announced that a Closed Session would take place on Wednesday, February 2, 2000 at the beginning of the Planning Commission meeting.

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Chairman Murphy announced that Committee preference forms would be distributed to Commission members next week.

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S97-CW-6CP - OUT-OF-TURN PLAN AMENDMENT (Decision Only)

(The public hearing on this item was held on January 26, 2000. A complete verbatim transcript of the decision made this evening is in the date file.)

Commissioner Hall MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS ADOPTION OF OUT-OF-TURN PLAN AMENDMENT S97-CW-6CP, RELATED TO THE BAILEY'S CROSSROADS AND SEVEN CORNERS COMMUNITY BUSINESS CENTERS, AS SHOWN IN THE STAFF REPORT, PAGES 10 THROUGH 59, WITH MODIFICATIONS AS SHOWN IN THE HANDOUT DATED 27 JANUARY 2000. Commissioner Hall noted that the amendment included Area Plans Review Items 98-I-1B, 98-I-1B(Expanded), 98-I-2B, and 98-I-3B.

Commissioner Byers seconded the motion which carried by a vote of 9-0-1 with Commissioner Moon abstaining; Commissioners Downer and Palatiello absent from the meeting.

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ORDER OF THE AGENDA ITEMS

Secretary Harsel set the following order for tonight's agenda items:

1. SE-99-V-040 - FRANCOIS X. & VIOLETTE J. GADROY
2. SE-99-V-028 - GROVETON CAR WASH CORP.
3. ZONING ORDINANCE AMENDMENT (Partial Building Permits)
4. ZONING ORDINANCE AMENDMENT (Massage Establishments & Therapists)
5. RZ/FDP-1999-PR-023 - M/I SCHOTTENSTEIN HOMES

This order was accepted without objection.

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SE-99-V-040 - FRANCOIS AND VIOLETTE GADROY - Appl.
under Sect. 2-904 of the Zoning Ord. to permit uses in a floodplain
on property located at 6311 Potomac Ave. on approx. 14,626 sq.
ft. of land zoned R-3. Tax Map 83-4 ((2))(35)1, 2, 3, & A. MOUNT
VERNON DISTRICT. PUBLIC HEARING.

Mr. Francois Gadroy, the applicant, reaffirmed the affidavit dated April 21, 1999. There were no disclosures by Commission members.

Commissioner Byers asked that Chairman Murphy ascertain whether there were any speakers for this application. There being none, he asked that presentations by staff and the applicant be waived and the public hearing closed. No objections were expressed, therefore Chairman Murphy closed the public hearing and recognized Commissioner Byers for action on this case. (Verbatim excerpts are in the date file.)

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Commissioner Byers MOVED THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE SE-99-V-040, SUBJECT TO THE DEVELOPMENT CONDITIONS CONTAINED IN APPENDIX 1 OF THE STAFF REPORT.

Commissioners Koch and Kelso seconded the motion which carried unanimously with Commissioners Downer and Palatiello absent from the meeting.

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SE-99-V-028 - GROVETON CAR WASH CORP. - Appl. under Sect. 4-804 of the Zoning Ord. to permit a truck rental establishment on property located at 6737 Richmond Hwy. on approx. 27,705 sq. ft. of land zoned C-8, HC & CRD. Tax Map 93-1((17))1A. MOUNT VERNON DISTRICT. PUBLIC HEARING.

Ms. Jane Kelsey, with Kelsey and Associates, reaffirmed the affidavit dated January 12, 2000. There were no disclosures by Commission members.

Commissioner Byers noted that there were several outstanding issues with this application and announced his intention to defer the decision.

Ms. Cathy Seiber, Zoning Evaluation Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. She noted that staff recommended denial of the application, citing adverse impact on the use and/or development of neighboring residential properties.

Ms. Kelsey explained that the subject property and business had been in the Douglas family for three generations and that Mr. Ken Douglas, the current owner, had been operating a truck rental business on the site for seven years. She added that Mr. Douglas had only recently discovered that his business was in violation of the Zoning Ordinance. She outlined the restrictions and limitations agreed to by the applicant regarding the number of trucks on site at any one time, the amount of parking on site and the signs allowed for the business.

Mr. Douglas stated that he had served more than 13,000 customers in the seven years of truck rental operation. He said this indicated a need in the community for the service.

Chairman Murphy called for speakers from the audience and recited the rules for public testimony.

Dr. Michael Cummiskey, 2808 Schooley Drive, Alexandria, spoke in support of the application. He suggested that the property would fall into disrepair and become a neighborhood blight if the applicant was forced to close his business. He submitted a petition with eight names of citizens also supporting the application, a copy of which is in the date file.

Chairman Murphy suggested that Dr. Cummiskey obtain a copy of the staff report which detailed staff's concerns with this application.

Mr. Jonathan Hill, 2809 Schooley Drive, Alexandria, spoke in opposition to the application. He said that the excessive number of trucks parked off site were objectionable to area residents. He maintained that the property was too small to accommodate a truck rental business. Mr. Hill displayed photographs demonstrating his point.

There being no further speakers, Chairman Murphy called upon Ms. Kelsey for a rebuttal statement.

Ms. Kelsey stated that the trucks parked off site had been removed and that the applicant now understood that no trucks could be parked on nearby residential streets.

In response to questions from Commissioner Byers, Ms. Kelsey explained that Mr. Douglas had been informed that his business was in violation of Zoning Ordinance regulations by means of a letter sent to all truck rental companies in Fairfax County following revision of the Zoning Ordinance regarding truck rental businesses.

Commissioner Byers and Ms. Kelsey discussed the proposed development plan, focusing particularly on landscaping and parking. Commissioner Byers reiterated his intention to defer decision and, after consulting with staff, suggested March 9, 2000 as an appropriate date.

Ms. Kelsey responded to questions from Commissioner Wilson regarding the current operation of the truck rental business and the proposed parking layout.

There being no further comments or questions from the Commission and Ms. Seiber having no closing staff remarks, Chairman Murphy closed the public hearing and recognized Commissioner Byers for a deferral motion. (Verbatim excerpts are in the date file.)

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Commissioner Byers MOVED THAT THE PLANNING COMMISSION DEFER THE DECISION ONLY ON SE-99-V-028 TO A DATE CERTAIN OF MARCH 9, 2000, WITH THE RECORD REMAINING OPEN FOR WRITTEN COMMENTS.

Commissioners Koch and Kelso seconded the motion which carried unanimously with Commissioner Alcorn not present for the vote; Commissioners Downer and Palatiello absent from the meeting.

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ZONING ORDINANCE AMENDMENT (Partial Building Permits) - To amend Chap. 112 of the 1976 Fairfax County Code to accommodate the approval of partial building permits prior to site plan approval in accordance w/the Virginia Uniform Statewide Building Code. PUBLIC HEARING.

Ms. Donna Pesto, Zoning Administration Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. She noted that staff recommended approval of the language outlined on pages 2 and 3 of the staff report.

Chairman Murphy called for speakers from the audience, but received no response. There being no comments or questions from the Commission or closing staff remarks, he closed the public hearing and recognized Commissioner Wilson for action on this matter. (Verbatim excerpts are in the date file.)

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Commissioner Wilson MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT IT APPROVE THE PROPOSED ZONING ORDINANCE ON PARTIAL BUILDING PERMITS, IN ACCORDANCE WITH THE STAFF REPORT DATED DECEMBER 6, 1999, AS ADVERTISED, WITH AN EFFECTIVE DATE OF 12:01 A.M. ON THE DAY FOLLOWING ADOPTION.

Commissioner Byers seconded the motion which carried unanimously with Commissioners Alcorn, Harsel and Kelso not present for the vote; Commissioners Downer and Palatiello absent from the meeting.

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COUNTY CODE AMENDMENT and ZONING ORDINANCE AMENDMENT (Massage Establishments and Therapists) - To repeal Chap. 28 & establish a new Chap. 28.1 & to revise the annual \$2,000 permit fee for a massage establishment to \$75 & to revise the annual \$25 permit fee for a massage technician to an annual \$50 fee for a certified massage therapist; to amend Chap. 10 (Consumer Protection) to update & make editorial revisions; & to amend Chap. 112 (Zoning Ord.) to revise the provisions regarding massage establishments & to allow massage therapy establishments as an office use. PUBLIC HEARING.

ZONING ORDINANCE AMENDMENT
(Massage Establishments & Therapists)

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Ms. Carolyn Quetsch, Director, Consumer Services Division, Department of Telecommunications and Consumer Services, presented the staff report for the County Code Amendment, a copy of which is in the date file. She noted that staff recommended approval of the language on pages 6 through 24 of the staff report.

Ms. Donna Pesto, Zoning Administration Division, Department of Planning and Zoning, presented the staff report for the Zoning Ordinance Amendment, a copy of which is in the date file. She noted that staff recommended approval of the language outlined on pages 25 through 28 of the staff report.

Ms. Pesto and Erin Ward, Esquire, Assistant County Attorney, and Ms. Quetsch responded to questions from Commissioner Alcorn concerning fees for home professional offices (HPOs), where HPOs would be allowed as by-right uses, the legal aspects of medical prescriptions for massage, current and proposed certification procedures for massage therapists, current and proposed criminal background checks and which offenses were considered disqualifying, and the proposal to create a staff position in the Department of Consumer Affairs to administer the new Chapter 28.1 of the County Code.

Ms. Pesto responded to questions from Chairman Murphy regarding the requirements for HPOs in residential districts and the differences between an HPO and a home occupational permit.

Chairman Murphy called the first listed speaker.

Mr. John Langford, Chairman of the Citizens Advisory Council to the Chief of Police, 6320 Everglades Drive, Alexandria, spoke in opposition to the proposed amendments in their present form. He expressed his concern about enforcement and suggested that unannounced inspections be allowed. He also said that fingerprinting should be required and that the list of disqualifying crimes be expanded. He further suggested that the fee for a massage establishment be kept high to discourage questionable operations. (A statement from Mr. Langford is in the date file.)

Mr. Langford responded to questions from Commissioner Smyth regarding his position.

Ms. Ward responded to questions from Commissioner Hall concerning the list of disqualifying crimes; from Commissioner Smyth about other professions that required fingerprinting during the certification process; from Commissioner Alcorn about the term "hackers" in the Zoning Ordinance; and from Commissioner Wilson regarding the County's authority to require or allow announced inspections of HPOs.

Ms. Diana Simonton, President, American Massage Therapists Association, 1107 Bellevue Boulevard, Alexandria, spoke in support of the proposed amendments. She explained the certification requirements and noted that she had received many complaints from therapists about Fairfax County's regulations which were more arduous than those

of neighboring jurisdictions. In response to Mr. Langford's comment that fees be kept high to discourage questionable practices, she noted that it was her experience that the questionable and possibly illegal operators could more easily afford the higher fees. Ms. Simonton said that information from a nationwide survey of massage therapists indicated that a majority considered themselves to be part time and that unreasonably high fees placed an undeserved burden on legitimate therapists performing a much needed service.

Ms. Simonton responded to questions from Chairman Murphy and Commissioners Kelso and Wilson regarding the survey results and fees charged in other jurisdictions.

Captain Frank Wernlein, representing the Fairfax County Police Department, 4100 Chain Bridge Road, Fairfax, spoke in opposition to the proposed amendments in their current form. He saw the changes as a weakening of the regulations which he said would exacerbate enforcement problems. (A copy of Captain Wernlein's statement is in the date file.) He made three suggestions as follows:

1. full identification of applicants, including fingerprinting;
2. deletion of "outcall" services or at least limiting such services to the residence or business of a client, not a motel or hotel; and
3. a licensing fee high enough to cover administrative and personnel costs.

Ms. Pesto, Captain Wernlein, and Ms. Jane Gwinn, Zoning Administrator, responded to questions from Commissioner Alcorn concerning the Police Department's input during the planning stages of these proposed amendments.

Captain Wernlein and Ms. Ward responded to questions from Commissioners Hall and Wilson regarding the Police Department's responsibilities and the current identification process required by massage therapist applicants. Commissioner Hall supported fingerprinting as suggested by Captain Wernlein.

Ms. Mary Wilkerson, Legislative Co-Chair for the Northern Virginia American Massage Therapy Association, spoke in support of the proposed amendments. She said that Fairfax County's restrictions on massage therapists were burdensome and unnecessary and that she personally found the fingerprinting suggestion offensive. Ms. Wilkerson pointed out that physical therapists, doctors, and home health care nurses were not required to submit fingerprints to conduct their businesses.

Chairman Murphy noted that Ms. Wilkerson was with a group. He asked the group members to stand and be recognized in their support for Ms. Wilkerson's comments.

Commissioner Alcorn explained the Commission's role in these proposed amendments and Ms. Wilkerson responded to his questions regarding her position on the current requirements.

Commissioner Hall commented that she supported the fingerprinting requirement and did not see it as unreasonable. Ms. Wilkerson disagreed.

Chairman Murphy noted that there had been a few persons who had given massage therapists a bad reputation and it was important that appropriate precautions be taken to assure that applicants were legitimate therapists, seeking only to provide a much needed service.

Reverend Wayne Sickels, 1406 Northgate Square, #22C, Reston, supported the proposed amendments. He said that the current regulations needed to be updated. He opposed the suggestion that a doctor's prescription be required.

Ms. Katherine Hunter, owner and director of a massage school located at 462 Herndon Parkway, Herndon, spoke in support of the proposed amendments. She suggested that, for consistency's sake, regulation of massage therapists should be the jurisdiction of the state, not individual counties. She was opposed to the fingerprinting requirement. Ms. Hunter submitted 14 letters of support which are in the date file.

Mr. Neil Knolle, 13132 Lazy Glen Court, Herndon, President of Reston Runners, a 620-member organization that encouraged health and fitness, supported the proposed amendments and spoke about the great need that athletes had for the services of massage therapists.

There being no further speakers, no further comments or questions from the Commission and no closing staff remarks, Chairman Murphy closed the public hearing and recognized Commissioner Alcorn for action on these amendments. (Verbatim excerpts are in the date file.)

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Commissioner Alcorn MOVED THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF THE PROPOSED AMENDMENTS TO CHAPTERS 10, 28, 28.1 AND 112 OF THE COUNTY CODE AS ADVERTISED, WITH THE ADDITIONAL REQUIREMENT THAT FINGERPRINTING OF MASSAGE THERAPISTS BE OBTAINED DURING THE PERMITTING APPLICATION PROCESS.

Commissioners Koch and Wilson seconded the motion which carried unanimously with Commissioners Byers and Harsel not present for the vote; Commissioners Downer and Palatiello absent from the meeting.

Commissioner Alcorn MOVED THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS FUND AND FILL THE POSITION IN THE DEPARTMENT OF CONSUMER AFFAIRS TO ADMINISTER THIS PROGRAM AS RECOMMENDED BY THE POLICE DEPARTMENT.

Commissioner Hall seconded the motion which carried unanimously with Commissioners Byers and Harsel not present for the vote; Commissioners Downer and Palatiello absent from the meeting.

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(The Commission went into recess at 11:10 p.m. and reconvened in the Board Auditorium at 11:30 p.m.)

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RZ-1999-PR-023 - M/I SCHOTTENSTEIN HOMES - Appl. to rezone from R-3 to PDH-4 to permit residential development at a density of 2.95 du/ac & approval of the conceptual development plan on property located in the S.E. quadrant of the intersection of Morgan Ln. & Idylwood Rd. on approx. 5.43 ac. Comp. Plan Rec: 3-4 du/ac. Tax Map 39-4((4))(B)14-21. (Concurrent with FDP-1999-PR-023.) PROVIDENCE DISTRICT.

FDP-1999-PR-023 - M/I SCHOTTENSTEIN HOMES - Appl. to approve the final development plan for RZ-1999-PR-023 to permit residential development on property located in the S.E. quadrant of the intersection of Morgan Ln. & Idylwood Rd. on approx. 5.43 ac. zoned PDH-4. Tax Map 39-4 ((4))(B)14-21. (Concurrent with RZ-1999-PR-023.) PROVIDENCE DISTRICT. JOINT PUBLIC HEARING.

Commissioner Smyth explained that the Virginia Department of Transportation (VDOT) had recently submitted new information concerning future road widening in the area of the subject property. She added that it appeared this information would significantly impact the applicant's proposed layout and announced her intention to defer the decision on these applications.

Keith Martin, Esquire, with Walsh, Colucci, Stackhouse, Emrich and Lubeley, reaffirmed the affidavit dated November 3, 1999. There were no disclosures by Commission members.

Ms. Cathy Lewis, Zoning Evaluation Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. She noted that there had not been sufficient time to thoroughly review the implications of the new information from VDOT and therefore staff did not have a recommendation at this time.

Mr. Martin noted that the applicant's proposal was in conformance with the Comprehensive Plan recommendation for 3 to 4 dwelling units per acre (du/ac) and that the subject property was surrounded by similar zoning. He added that the applicant's

original plan for 21 single family lots had been reduced to the current proposal for 15 lots, resulting in a density of 2.76 du/ac. He stated that the development would allow 45 percent open space and that the proffers included landscaping, fencing, architectural design, stream bank stabilization, a trail along Idylwood Road, a contribution for off-site recreation facilities, a sound wall and right-of-way dedication along I-495 for VDOT's proposed 12-lane express plan. Mr. Martin explained that VDOT's plans had changed several times since the beginning of this project and that VDOT's own consultant had acknowledged that the latest version was an absolute worse case scenario that might never be built. He maintained that it could take years for VDOT to finalize its plans and that it was unreasonable to deny this rezoning for that reason. He noted that the possible future need by VDOT for additional right-of-way was not generated by this development and should not be the basis for denial of the applicant's proposal.

Chairman Murphy called the first listed speaker.

Mr. Flint Webb, 8308 Westchester Drive, Vienna, was opposed to the requested waiver of setback requirements. He added that a sound wall would not help if an accident involving hazardous materials occurred on I-495.

Mr. Webb responded to questions from Commissioner Koch regarding his position.

Ms. Lewis responded to a question from Commissioner Smyth regarding the 200-foot setback from I-495.

Mr. Eugene Barnes, 2551 Gallows Road, Dunn Loring, representing the Stenhouse Citizens Task Force, spoke in opposition to the proposed PDH zoning and the requested setback waiver. He was also opposed to the applicant's proposal for private streets and said that parking was inadequate.

Mr. Richard Opp, 8000 North Park Street, Dunn Loring, complained that notification of this public hearing was inadequate.

In response to Chairman Murphy's explanation of notification requirements, Mr. Opp said that the requirements were inadequate. Commissioner Alcorn explained that civic association leaders should make themselves known to the staff at the Supervisors' offices to ensure notification of pending land use actions.

Mr. Opp continued his testimony, expressing his opposition to the applicant's proposal which he said was out of character for the area. He was opposed to the setback waiver and agreed with Mr. Barnes that parking was inadequate. Mr. Opp explained that the nearby "quasi" park referred to in the staff report was in fact a privately owned and maintained park.

Mr. Op responded to questions from Commissioner Hall regarding the private park.

Ms. Rebecca Cate, 8119 Westchester Drive, Vienna, expressed her concern for the stabilization of the stream bank on the subject property. She was opposed to private streets and agreed with Mr. Barnes that parking was inadequate.

Mr. Mike Cavin, 8119 Westchester Drive, Vienna, was opposed to the setback waiver and the density proposed. He said that parking was inadequate and that stream bank erosion should be addressed.

Mr. Dan Small, 2405 Lellah Court, Dunn Loring, spoke in opposition. He said that the requested density was too high and that the proposal was out of character for the area.

Mr. Small responded to questions from Chairman Murphy and Commissioner Hall regarding his position.

Mr. John Eltzroth, 8100 Revatom Court, Dunn Loring, spoke in opposition to the application. He disagreed with the proposal for private streets and commented on other developments in the area by the applicant.

In response to a question from Chairman Murphy, Ms. Lewis identified a nearby development as Shreve Hill. Commissioner Smyth commented that Shreve Hill was a prime example of what not to do.

Mr. Ray Worley, 2537 Gallows Road, Dunn Loring, representing the Dunn Loring Improvement Association, expressed his disappointment with not receiving the most recent set of proffers until this evening. He opposed the applicant's proposal, citing private streets, stream bank erosion, small lot sizes, setback waivers, and the unknown VDOT plans as the basis for his opposition.

There being no further speakers, Chairman Murphy called upon Mr. Martin for a rebuttal statement.

Mr. Martin noted that development plans had been hand delivered to Mr. Worley's home, at Supervisor Connelly's request, and Mr. Martin assumed they had been received. He apologized to Mr. Worley and anyone else who did not receive information concerning this application in a timely manner. He maintained that the waivers requested were reasonable. He pointed out that a conventional R-3 development would be more harmful to the environment than the applicant's proposal for PDH-4.

In response to questions from Commissioner Alcorn, Mr. Martin stated that there was no floodplain property on the site and that the environmental quality corridor (EQC) identified by staff would be developable in an conventional R-2 lot layout.

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At Commissioner Alcorn's request, Ms. Lewis explained that density penalties were imposed on properties containing steep slopes or floodplain, but that an EQC on the subject property would not trigger the density penalty provision.

Mr. Martin responded to questions from Commissioner Wilson regarding the limits of clearing and grading, landscaping and tree save.

There being no further comments or questions from the Commission and Ms. Lewis having no closing staff remarks, Chairman Murphy closed the public hearing and recognized Commissioner Smyth for a deferral motion. (Verbatim excerpts are in the date file.)

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Commissioner Smyth MOVED THAT THE PLANNING COMMISSION DEFER THE DECISION ONLY ON RZ/FDP-1999-PR-023, M/I SCHOTTENSTEIN HOMES, TO A DATE CERTAIN OF FEBRUARY 10, 2000.

Commissioners Wilson and Hall seconded the motion which carried unanimously with Commissioners Alcorn and Byers not present for the vote; Commissioners Downer and Palatiello absent from the meeting.

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The meeting was adjourned at 12:51 a.m.
Peter F. Murphy, Jr., Chairman
Suzanne F. Harsel, Secretary

For a verbatim record of this meeting, reference may be made to the audio and video recordings which may be found in the Office of the Planning Commission of Fairfax County, Virginia.

Minutes by: Gloria L. Watkins

Approved on: November 1, 2000

Mary A. Pascoe, Clerk to the
Fairfax County Planning Commission